

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

RICHARD BOB LARGENT,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CIV-20-683-J
	)	
SCOTT NUNN, Acting Warden,	)	
	)	
Respondent.	)	

**ORDER**

Petitioner, a state prisoner appearing pro se, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 [Doc. No. 1]. The matter was referred for initial proceedings to United States Magistrate Judge Suzanne Mitchell consistent with 28 U.S.C. § 626(b)(1)(B), (C) and Respondent filed motions to dismiss based on timelessness [Doc. No. 8] and failure to exhaust state court remedies [Doc. No. 10]. On review, Judge Mitchell recommended that Respondent’s first motion be denied as moot and his second motion granted. [Doc. No. 15]. Despite being cautioned that he must file any objection no later than November 3, 2020, *see id.*, Petitioner did not object and has waived his right to appellate review of the factual and legal issues addressed in the Report and Recommendation. *See Cassanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

Accordingly, the Court ADOPTS the Report and Recommendation [Doc. No. 15], DENIES Respondent’s motion to dismiss based on timeliness [Doc. No. 8] as moot, GRANTS Respondent’s motion to dismiss based on failure to exhaust state court remedies [Doc. No. 10], and DISMISSES the petition for writ of habeas corpus [Doc. No. 1] without prejudice.

Pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, the Court must issue or deny a certificate of appealability (COA) when it enters a final order adverse to a petitioner. A COA may issue only if the petitioner “has made a substantial showing of the denial of a

constitutional right.” 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Petitioner has failed to make either showing and the Court denies the COA.

A separate judgment shall be entered.

IT IS SO ORDERED this 16<sup>th</sup> day of November, 2020.



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BERNARD M. JONES  
UNITED STATES DISTRICT JUDGE